

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and Robert G. Taub

Venice Main Post Office  
Venice, California

Docket No. A2012-17

PUBLIC REPRESENTATIVE RESPONSE TO  
UNITED STATES POSTAL SERVICE MOTION  
TO DISMISS PROCEEDINGS

(January 20, 2012)

The Public Representative hereby responds to the Postal Service's motion to dismiss Commission proceedings concerning an appeal of a Postal Service decision to discontinue service at the Venice Main Post Office.<sup>1</sup> The Postal Service states that it has decided to relocate service to the Venice Carrier Annex. Motion at 2.

On October 17, 2011, the Commission received correspondence from postal customer Mark Ryavec and Venice Stakeholders Association requesting a review of the Postal Service's decision to close the Venice Main Post Office (VMPO) and making application for suspension of the relocation to the Venice Carrier Annex (VCA).<sup>2</sup> On

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<sup>1</sup> See Motion of United States Postal Service to Dismiss Proceedings, Docket No. A2012-17, October 27, 2011 (Motion).

<sup>2</sup> Petition for Review and Application for Suspension of Determination received from Mark Ryavec and Venice Stakeholders Association, October 17, 2011 (Petition). Additional petitions were subsequently filed by Bill Rosendahl, City of Los Angeles Councilmember, 11<sup>th</sup> District, and several postal customers of Venice, California.

October 20, 2011, the Commission instituted a proceeding under 39 U.S.C. § 404(d)(5) and established the above referenced docket to consider the Petitioner's appeal.<sup>3</sup> On October 27, 2011, the Postal Service filed its Motion to Dismiss, as well as its response to the Petitioner's application for suspension.<sup>4</sup> Petitioners filed a response in opposition to the Postal Service's Motion as part of their initial brief on December 9, 2012.<sup>5</sup> Pursuant to the procedural schedule, Petitioners subsequently filed a reply brief on January 10, 2012.<sup>6</sup>

### ARGUMENT

The Postal Service argues that its decision involves the relocation of retail postal services from the Venice Main Post Office to the Venice Carrier Annex, which is located approximately 400 feet from the Venice Main Post Office. Motion at 3. As such, the relocation of retail operations within the same community "is governed by 39 C.F.R. § 241.4, and falls outside the scope of 39 U.S.C. § 404(d)." Response at 1. Accordingly, the Commission "lacks subject matter jurisdiction and should dismiss the appeal." Motion at 1.

Petitioners contend that the Venice community may be left without retail postal services for an indefinite period of time should the Postal Service decide to sell the Venice Main Post Office prior to undertaking necessary renovations at the Venice Carrier Annex to permit relocation of the retail services. Initial Brief at 5. Petitioners also express concern that the Postal Service may abandon its decision to renovate the Venice Carrier Annex. *Id.* Consequently, the Postal Service's actions with respect the

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<sup>3</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 20, 2011 (Order No. 918).

<sup>4</sup> Response of United States Postal Service to Petitioner's Application for Suspension of Determination for the Venice Main Post Office, Venice, California 90291, October 27, 2011 (Response).

<sup>5</sup> Petitioners Venice Stakeholders Association and Mark Ryavec's Initial Brief and Opposition to Motion to Dismiss Appeal of Post Office Closure, December 9, 2012 (Initial Brief).

<sup>6</sup> Reply Brief of Petitioners Venice Stakeholders Association and Mark Ryavec, January 10, 2012 (Reply Brief).

Venice Main Post Office “must be viewed as a closure” and the “Commission has jurisdiction to hear this appeal.” *Id.*

Pursuant to 39 U.S.C. § 404(d)(5), a Postal Service determination to “close or consolidate any post office may be appealed by any person service by such office to the Postal Regulatory Commission.” In order for the Commission to hear such an appeal, however, the Postal Service’s actions must constitute either a “closing” or a “consolidation.”

The Commission has long held that the relocation of retail postal operations from one facility to another within the same community does not constitute a “closing” or “consolidation” for purposes of section 404(d). Such Commission decisions affirming that section 404(d) does not apply to relocation of retail postal operations include Order No. 804, Order Dismissing Appeal, Docket No. A2011-21, *Ukiah* (August 15, 2011) (ruling that 39 U.S.C. § 404(d) did not apply where the transfer of retail operations to a carrier annex one mile away from the main post office was a relocation of retail services); Order No. 448, Order Dismissing Appeal, Docket No. A2010-2, *Steamboat Springs* (April 27, 2010) (ruling that 39 U.S.C. § 404(d) did not apply where the transfer of retail operations to a facility within the same community constituted a relocation or rearrangement of facilities); Order No. 696, Docket No. A86-13, *Wellfleet* (June 10, 1986) (ruling that 39 U.S.C. § 404(d) did not apply where the new location was 1.2 miles away from the former location); Order No. 436, Docket No. A82-10, *Oceana Station* (June 25, 1982) (ruling that 39 U.S.C. § 404(d) did not apply where the new location was four miles away from the former location). These decisions, cited by the Postal Service, appropriately support the conclusion that the relocation of services or rearrangement of retail facilities within a community does not constitute a closing or a consolidation—a prerequisite for an appeal under Section 404(d).

In this proceeding, the Postal Service’s decision to relocate retail postal services from the Venice Main Post Office to the Venice Carrier Annex occurs within the same community between facilities located approximately 400 feet apart. These

circumstances are similar to those presented to the Commission in *Steamboat Springs*. Customers who would otherwise be served by the Venice Main Post Office can expect to be served by the Venice Carrier Annex, which is closer than the Sundance Plaza Station in *Steamboat Springs*.<sup>7</sup> In *Steamboat Springs*, the distance between the Sundance Plaza Station and the Steamboat Springs Post office was 1.3 miles. Order No. 448, *Steamboat Springs*, at 2. Moreover, the procedures to be followed by the Postal Service for effectuating the Venice Main Post Office relocation will be governed by 39 C.F.R. § 241.4. Thus, the Postal Service's actions with respect to the Venice Main Post Office appear to be a rearrangement of retail facilities in the community of Venice, consistent with Commission's conclusion in *Steamboat Springs*. *Id.* at 4.

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<sup>7</sup> The Postal Service states that retail postal services will continue to be available to customers in Venice because plans for the sale of the Venice Main Post Office will occur "once the move [of retail services] is completed." Initial Brief, Exhibit A (USPS Press Release, "Postal Service Approves Relocation of Venice Post Office," July 18, 2011.) Given this representation, customers of the Venice Main Post Office should not be adversely affected by the dismissal of this appeal.

### CONCLUSION

For the reasons stated above, the Commission should dismiss the appeal because the Postal Service's decision to relocate retail postal services from the Venice Main Post Office to the Venice Carrier Annex is not subject to 39 U.S.C. § 404(d).

Respectfully Submitted,

s/ James F. Callow

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